IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

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WRIT PETITION NO : 6401 of 1996

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Date: 14.12.2005

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Between:

1 Akella Pattabhiramayya S/o.Krishna Somayajulu (Died)
R/o.Vyaghreswaram Ambajipeta Mandal
East Godavari District and others.

..... PETITIONER

AND

1 Gundabathula Prabhakara Rao S/o.Late Narayana Murthy
R/o.Pulletikurru Village Ambajipeta Mandal
East Godavari District and others

.....RESPONDENTS

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 6401 of 1996

ORDER:

No representation on both sides.

Perused the record.

A.T.C.No.36 of 1989 was filed by the petitioner against the first respondent in the Court of the Special Officer-cum-District Munsif, Kothapet. On administrative grounds it was transferred to the Court of Special Officer-cum-District Munsif, Amalapuram, East Godavari District, and was renumbered as A.T.C.No.2 of 1990. Thereafter, it was allowed *ex parte,* since the first respondent failed to enter his

appearance. After the petitioner filed E.P for delivery of possession of the property covered by the A.T.C., first respondent filed I.A.No.944 of 1990 under Order IX Rule 13 C.P.C. to set aside the *ex parte* order of eviction passed against him. The learned Special Officer allowed the same, overruling the objection of the petitioner that the petition to set aside the *ex parte* order is barred by limitation. Appeal preferred by the petitioner to the District Judge, Rajahmundry, East Godavari District in A.T.A.No.67 of 1992 questioning the said order was dismissed. Hence, this petition.

The main grievance of the petitioner seems to be that inasmuch as first respondent filed the petition to set aside the *ex parte* order beyond 30 days from the date of *ex parte* order, the same is barred by limitation. The learned District Judge, in his order impugned in this petition, clearly stated that a perusal of the record shows that after transfer of the case from Kothapet to Amalapuram, no notice was issued to the respondent or his counsel. It is well known that when a case is transferred from one Court to another Court, transferee Court has to issue notice to the concerned party or to his counsel to enable them to be present before it for taking part in further proceedings. When no notice is served on the first respondent after transfer of the case to Amalapuram, limitation begins to run from the date of knowledge only. Since the petition was filed well within 30 days from the knowledge of the *ex parte* order, the order of the learned District Judge, impugned in this petition does not suffer from any infirmity and so I find no merits in this petition.

The writ petition is accordingly dismissed. No costs.

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(C.Y. SOMAYAJULU, J)

Date: 14.12.2005

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